

EXHIBIT 2

REDACTED

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----x

5 JOHN DOE NO. 1; JOHN DOE NO. 2;

and NEW YORK STATE RIFLE AND

6 PISTOL ASSOCIATION, INC.,

7 Plaintiffs,

8 16-CV-8191

9 - against -

10 PUTNAM COUNTY; and MICHAEL C.

BARTOLOOTI, in his official

11 capacity as County Clerk for

Putnam County,

12 DEFENDANT,

13 STATE OF NEW YORK ATTORNEY GENERAL,

14 Intervenor.

15 -----x

16 9:45 a.m.

June 4, 2019

17 245 Main Street

18 White Plains, New York

19 * CONFIDENTIAL INFORMATION *

20 DEPOSITION of [REDACTED], a

21 Plaintiff in the above entitled matter, pursuant

22 to Notice, before Stephen J. Moore, a Registered

23 Professional Reporter, Certified Realtime Reporter

24 and Notary Public of the State of New York.

25

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A P P E A R A N C E S:

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EXAMINATION BY

PAGE

MR. DAGUE

5 25

E X H I B I T S

Exhibit 1 [REDACTED]'s curriculum vitae or
resume

16 14

Exhibit 2 Declaration of John Doe number
2

69 11

Exhibit 3 Document relating to gun carry
permit types

85 7

Exhibit 4 Final divorce decree dated
[REDACTED]

94 7

Exhibit 5 Ex parte temporary order of
protection

94 7

Exhibit 6 New York State Firearms License
Request For Public Records
Exemption

106 22

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Exhibit 7 City of New York Fire 113 17

Department record of
proceedings

Exhibit 8 Notice to Take Deposition 124 19

Exhibit 9 E-mail to [REDACTED] by [REDACTED] 134 8

[REDACTED]

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1
2 [REDACTED] [REDACTED] [REDACTED],
3 called as a witness, having been duly
4 sworn by the Notary Public, was examined
5 and testified as follows:
6

7 MR. D. COOPER: Before we begin,
8 can we just put on the record this
9 testimony is going to be designated as
10 confidential information under the
11 protective order in this case.

12 I think we all need to agree to
13 that.

14 MR. DAGUE: Yes, we agree. The
15 testimony of the deposition transcript
16 will be maintained pursuant to the
17 protective order, signed and so ordered
18 in this matter.

19 We would agree to normal federal
20 steps, including read and sign by the
21 witness following the testimony.

22 MR. D. COOPER: Agreed.
23
24
25

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2 record that we all understand when it's all
3 done, okay?

4 A Understood, yes.

5 Q Could you state your full name
6 for the record?

7 If you already did, I apologize
8 for asking you to do it again.

9 A [REDACTED].

10 Q And [REDACTED], where do you
11 currently reside?

12 A In Putnam County, New York. The
13 address you need?

14 Q Yeah, might as well put it on
15 the record, if you don't mind.

16 A [REDACTED]

17 [REDACTED]

18 Q [REDACTED] is in Putnam County,
19 yes?

20 A That's correct, yes.

21 Q How long have you resided at the
22 [REDACTED] address?

23 A Since 2012, so what is that,
24 seven years.

25 Q What is your current age?

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2 A Yes.

3 Q What high school did you go to?

4 A [REDACTED], Staten
5 Island, New York.

6 Q What year did you graduate high
7 school?

8 A [REDACTED].

9 Q Are you currently married?

10 A Yes.

11 Q What's your spouse's name?

12 A [REDACTED],
13 last name [REDACTED].

14 Q How long have you been married
15 to [REDACTED]?

16 A 2011. So what is that, eight
17 years.

18 Q Do you have any children with
19 [REDACTED]?

20 A Yes.

21 Q How many children do you have?

22 A Two children.

23 Q What are their ages?

24 A Five and seven.

25 Q They live in the home with you

1 CONFIDENTIAL INFORMATION

2 currently?

3 A Yes.

4 Q Does [REDACTED] live in the
5 home with you as well?

6 A Yes.

7 Q Were you previously married?

8 A Yes.

9 Q How many times?

10 A One time previously.

11 Q What was your ex-wife's name?

12 A [REDACTED], maiden
13 name [REDACTED], but then
14 [REDACTED], she took my name at the time.

15 Q Do you have any children with
16 [REDACTED] from the first marriage?

17 A Yes.

18 Q How many?

19 A Two.

20 Q What are their ages?

21 A 28 and 30.

22 Q Do they live at home with you
23 currently?

24 A No.

25 Q I am going to show you what I'm

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2 So, that's when I transitioned,
3 and you leave the Fire Department, you are on
4 military leave and, I worked for the Coast
5 Guard full-time at that point.

6 Q For approximately a three year
7 period?

8 A It was two and a half, yes.

9 Q What was the highest rank you
10 obtained with the Coast Guard?

11 A Chief Petty Officer, that's
12 enlisted, and that's number 7 in the grade.

13 Q Can you explain that, what that
14 means, Chief Petty Officer that's enlisted in
15 number 7 grade?

16 A Military ranks, you have
17 enlisted folks and then you have officers, they
18 are separate career paths.

19 Enlisted you start off E1, the
20 numbers go up, E1 through E9, there is a name
21 associated with each rank, but E7 is a Chief
22 Petty Officer, E8 would be the Senior Chief
23 Petty Officer, E9 would be Master Chief Petty
24 Officer.

25 Q Had you obtained that rank when

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2 employed by the New York Police Department?

3 A Yes.

4 Q Do you recall approximately the
5 years of that employment?

6 A [REDACTED] '83 to [REDACTED] '88.

7 Q Did you take a test to become
8 employed by the police department?

9 A Yes. Same type of civil service
10 exam.

11 Q Did you take the Fire Department
12 test at the same time as the police department
13 test, or did you have a choice as to which, or
14 were you --

15 A I took the Police Department
16 test prior to the Fire Department exam.

17 Q You ultimately left the NYPD for
18 the Fire Department, why was that?

19 A It's a better job in my opinion,
20 it's one that I have always aspired to. It's a
21 family thing, [REDACTED] is a retired Battalion
22 Chief. At the time when I started in the
23 Police Department he was in the Fire
24 Department.

25 I knew a lot about that job and

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2 Do you see that?

3 A Yes, I do.

4 Q When did you first desire to own
5 a hand gun?

6 A Pretty much after moving
7 upstate, into Putnam County.

8 Q Is there a reason why you
9 desired to own a hand gun after moving upstate,
10 into Putnam County?

11 A Yes.

12 Q What is that reason, if you
13 recall?

14 A Well, I live in a very rural,
15 wooded area, remote. Police response times are
16 quite a period of time.

17 If you needed help -- and there
18 is a lot of wildlife in the area, I have a
19 three acre yard surrounded by fields and woods
20 and mountains and State Forest, and there are a
21 lot of animals that come on the property at any
22 given time.

23 Due to its remoteness and
24 response time from local police departments,
25 you know, it would be in my best interest that

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2 I feel to be able to own and possess a hand gun
3 to protect my family and my home, if needed.

4 Q And is there a reason why you
5 have an interest in owning a hand gun as
6 opposed to a long gun, a rifle or a shotgun?

7 A Just easier to lock up in your
8 house and secure, keep away from the kids and
9 stuff of that nature, and then quicker access
10 if needed.

11 Q When you became interested in
12 owning a hand gun as you reference in paragraph
13 6 of Defendant's Exhibit 2, did you take any
14 steps to investigate how to become -- how to
15 own a hand gun in New York State?

16 A Well, yes, they have the online
17 application available through the internet.

18 Q Did you look into that?

19 A Yes.

20 Q Can you just describe to me what
21 you did to investigate that or look into that?

22 A Read it, downloaded it, and
23 reviewed it.

24 One of my particular concerns is
25 around the time that I moved up to Garrison in

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Putnam County there was a big article in newspapers going on how other counties, Westchester in particular, you know, through FOIA requests, released information and publicized names of people and their addresses and names and stuff for public viewing, more like even an interactive website if you wanted.

And I just felt that in weighing my options from applying to receive a handgun permit and then having that public disclosure, kind of torn because of the scrutiny that I believe I would have had living in the town that I live in.

Q Do you recall where you saw that? Was it a news article that you saw?

A So, it was both in the Putnam County News Recorder, which is our local newspaper, and I believe it was all over Channel 12, Westchester news, as well, which is our local cable channel.

Q When approximately was that?

Year is fine, if you can recall.

A Well, I moved up there in

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2 [REDACTED] 2012, so it was shortly
3 thereafter.

4 Q Prior to moving up to Putnam
5 County in approximately [REDACTED] 2012, did you
6 ever prior to that have an interest in
7 obtaining a hand gun?

8 A No.

9 Q So, is it fair to say that the
10 interest began only after you moved to upstate
11 New York?

12 A Correct.

13 MR. DAGUE: Off the record.

14 (Discussion off the record.)

15 MR. DAGUE: Back on the record.

16 Q So, at no time prior to
17 approximately [REDACTED] 2012 had you looked into
18 obtaining a hand gun license?

19 A No. Not living in New York
20 City, where the Police Department has very
21 quick response time and things of that nature.
22 A different kind of setting.

23 Q Now, you testified, and correct
24 me if I'm wrong, that you were torn between
25 your interest in obtaining, owning a hand gun,

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2 and the information you saw in the newspaper
3 and on the news about public disclosure.

4 Is that a fair characterization
5 of what you said?

6 A Yes.

7 Q And could you describe for me
8 why you were torn, what your feelings are with
9 respect to that?

10 A Well, I want to have my Second
11 Amendment rights and be able to own a handgun
12 and have it in my house to protect.

13 But yet the public disclosure,
14 and having names and addresses up on a website
15 and given out for people to look at, is sort of
16 an invasion of my privacy.

17 And the fact that there are
18 people in town that don't look kindly to gun
19 owners.

20 Getting, being new in the
21 neighborhood and meeting people and discussing
22 things with them, you know, it's not a gun
23 loving community, and it would affect some of
24 our circles of friends, the way I feel.

25 The children in play dates -- as

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1 a matter of fact, recently there is an
2 ordinance, that was in [REDACTED], which is
3 the town governing where I live, passed an
4 ordinance that says if you are a gun owner, you
5 have to keep everything locked if it's not in
6 your possession, and things of that nature.
7

8 That spread a lot of
9 conversations around town and in school about
10 gee, if I knew that person was a gun owner, I
11 wouldn't even let my kids go to their house on
12 a play date.

13 MR. C. COOPER: Were you finished
14 with your answer?

15 THE WITNESS: Yeah.

16 Q I did exactly what I had asked
17 you not to do and I cut you off, so my
18 apologies.

19 Are you done, do you have
20 anything further to add to that?

21 A No.

22 Q If you do, just let me know.

23 You mentioned an ordinance, a
24 town ordinance with respect to play dates?

25 A No, no, town ordinance has

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2 your attention to the last sentence of that,
3 starting with, "I believe."

4 A Yes.

5 Q It reads, "I believe my family
6 and I would be subject to unwanted attention
7 and censure by those in the community who are
8 hostile to guns and gun owners."

9 Do you see that sentence?

10 A Yes, I see that.

11 Q Is that an accurate sentence?

12 A Yes.

13 Q And when you say --

14 MR. C. COOPER: Just for purposes
15 of clarification, that's not actually a
16 sentence, as opposed to a fragment of a
17 sentence.

18 MR. DAGUE: Fair enough.

19 Q And that is correct. I will
20 represent that is the back half of the
21 sentence, the actual sentence being, "Should my
22 personal identifying information be disclosed."

23 Is that your belief as contained
24 in this declaration?

25 A Yes, that's my personal belief.

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2 Q Now, when you say you believe
3 your family would be subjected to unwanted
4 attention, what do you mean by that?

5 A Again, being ostracized in the
6 fact that if it was publicly disclosed and
7 people wanted to go on a website and take a
8 look at stuff and do a little of their own
9 investigating.

10 My wife is a member of the
11 [REDACTED] Garden Club. If you don't have
12 your lawn looking great, you are kind of
13 ostracized a little bit from that club.

14 So they are not gun loving
15 people either. They don't even want oil
16 shipments going through to bring the oil way
17 upstate for the people that need it, so.

18 Q If you did own a hand gun and
19 someone asked you if you owned a hand gun, what
20 would you tell them?

21 A Well, I would be truthful in the
22 matter, but I would also tell them that it was
23 obviously, if they were worried about their
24 children or something like that, that it is
25 secured and not accessible to young children.

1 CONFIDENTIAL INFORMATION

2 I am a responsible kind of
3 person in that respect.

4 Q In that same sentence where you
5 say you believe your family would be subjected
6 to unwanted attention, you also say they will
7 be subjected potentially to censure.

8 Do you see the use of that word,
9 censure?

10 A Yes.

11 Q Can you tell me what you mean by
12 censure in that context?

13 A Again, it's a personal feeling
14 of people that are not that fond of guns, any
15 gun, pistol, long arm, you name it.

16 They just -- you might be on the
17 outside with their little group, so you might
18 not be a member of that Garden Club or some
19 community event and stuff based upon you being
20 a gun owner.

21 Again, it's the public
22 disclosure there of that information.

23 Q So, is it fair to say the
24 concern is more based upon how you may be
25 treated in the community versus or as opposed

1 CONFIDENTIAL INFORMATION

2 to anyone taking action against you?

3 A I would clarify it more as a way
4 you are treated. I don't think anybody would
5 take any certain action, other than, like I
6 say, maybe ostracizing you from a different
7 event or organization or in a circle of groups
8 of people.

9 Q Okay, fair enough.

10 So, other than -- going back a
11 little bit, you said when you became interested
12 in obtaining a hand gun you took some steps to
13 investigate how to become licensed in New York.
14 Is that fair?

15 A Yes.

16 Q And that included going on the
17 internet and looking at the forms, is that
18 fair?

19 A That's correct.

20 Q Did you go, at any point did you
21 go to the County Clerk's office to fill out
22 forms?

23 A No.

24 Q Did you go to the County Clerk's
25 office to discuss the forms?

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2 Q And is there any reason that you
3 believe that public disclosure of your name
4 would put your life or safety or that of your
5 spouse in danger?

6 A No.

7 Q So you don't believe you qualify
8 for the exception under number 2, is that fair?

9 A That's correct, yes.

10 Q Number 3 reads, "I am a spouse,
11 domestic partner or household member of a
12 person identified in A, B, C or D of question
13 1."

14 Do you see that?

15 A I do.

16 Q Do you believe that you qualify
17 as a spouse of someone of a person identified
18 in A, B, C or D above?

19 A No, I don't qualify.

20 Q So you don't believe your
21 current wife is not a retired police officer?

22 A No.

23 Q She's not a retired peace
24 officer?

25 A Correct.

1 CONFIDENTIAL INFORMATION

2 Q And none of those apply to your
3 current wife?

4 A Correct.

5 Q And number 4, "I have reason to
6 believe that I may be subject to unwarranted
7 harassment upon disclosure."

8 Do you see that?

9 A I do.

10 Q And do you have reason to
11 believe that you would be subjected to
12 unwarranted harassment if your name was
13 disclosed pursuant to the public disclosure
14 law?

15 A Not unwarranted harassment, no.

16 Q So when you said in the
17 declaration, Defendant's Exhibit 2, that you
18 have a concern with respect to public attention
19 and censure, do you believe that's different
20 than unwarranted harassment contemplated in
21 paragraph 4?

22 A Yes.

23 Q What do you think is meant by
24 unwarranted harassment in paragraph 4, in your
25 own words?

1 CONFIDENTIAL INFORMATION

2 A Well, I don't feel like -- first
3 of all, harassment is a crime. There are
4 different degrees of it in the New York State
5 Penal Law, but I don't feel anybody is going to
6 come and follow me around in public and hold up
7 signs and harass me just because my name is
8 publicly disclosed as a gun owner.

9 Q So again, the major difference
10 between the attention or censure you noted in
11 the declaration is that you believe that would
12 be more with respect to your standing in the
13 community?

14 A Yes. That of myself and my
15 family, my children, yes.

16 Q I am going to show you what will
17 be marked as Defendant's Exhibit 8.

18 (The above described document was
19 marked Defendant's Exhibit 8 for
20 identification as of this date.)

21 Q I will represent to you that I
22 will be brief with this exhibit, I only have
23 one or two questions, but please feel free to
24 take your time and get comfortable with the
25 document.

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any questions.

(Time noted 12:21 p.m.)

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I, the undersigned, a Certified Shorthand Reporter of the State of New York, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were duly sworn; that a record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction;

That the foregoing transcript is a true record of the testimony given.

Further, that if the foregoing pertains to the original transcript of a deposition in a federal case before completion of the proceedings, review of the transcript [x] was [] was not requested.

I further certify I am neither financially interested in the action nor a relative or employee of any attorney or party to this action.

IN WITNESS WHEREOF, I have this date subscribed my name.



Stephen J. Moore
RPR, CRR